

(2019) 07 PAT CK 0032

In the Patna High Court

Case No : Criminal Miscellaneous No. 16026 Of 2015

Natwar Bhandari And Ors

APPELLANT

Vs

State Of Bihar And Anr

RESPONDENT

Date of Decision : 04-07-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 323, 324, 341, 354, 376

Citation : (2019) 07 PAT CK 0032

Hon'ble Judges : Birendra Kumar, J

Bench : Single Bench

Advocate : Yogendra Kumar, Vinod Shankar Modi

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.
2. The petitioners have challenged the order of cognizance dated 01.08.2012 passed by learned Chief Judicial Magistrate, Supaul, in connection with Kishanpur P.S. Case No.158 of 2011 wherein cognizance has been taken for the offences under Sections 341, 323, 376, 354/34 of the Indian Penal Code.
3. According to FIR, the informant along with her Dewar Ramchandra Yadav had gone to Supaul Court to depose in connection with a case and thereafter they were returning to get a train to go to her house. On the way, two persons caught her. Mr. Ramchandra Yadav opposed the act of that person. Thereafter, the third person caught him and took him towards another side. The person who had caught the informant allegedly ravished her and petitioner Natwar Bhandari snatched her nostril. Thereafter, she saw that her Dewar was pooled with blood. Then she made alarm. The local people came and carried her Dewar to the Hospital.
4. Learned counsel for the petitioner submits that petitioner Birwa Bhandari is nephew of petitioner Bisheshwar Bhandari and Natwar Bhandari is grand-son of

petitioner Bisheshwar Bhandari. In the past murder of the brother of petitioner No.2 was committed and in that case Ram Chandra Yadav, is an accused. The same informant had lodged Supaul P.S. Case No.190 of 2011 under Sections 376/323/324 of the Indian Penal Code against Govind Bhandari and Ganesh Bhandari. Thus, she is a habitual to lodge false case against different persons with identical allegation. In this case actually informant has been set up by her Dewar Ram Chandra Yadav to implicate the petitioners.

5. The submission aforesaid may be considered at the appropriate stage of trial while the trial-court would be considering the reliability on the prosecution allegation and the issue of benefit of doubt. At this stage, the informant or other witnesses cannot be disbelieved for that reason. Therefore, in my view, there is sufficient material for cognizance against the petitioners for the offences referred above.

6. Hence, there is no merit in this application. Accordingly, it is dismissed.